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Janghwan Lee

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Joseph J. Laks

Thomson Licensing LLC

2 Independence Way, Patent Operations

PO Box 5312

PRINCETON, NJ 08543

EXAMINER

SHIBRU, HELEN

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/757,626
Filing Date: January 14, 2004
Appellant(s): LEE, JANGHWAN

Jorge Tony Villabon
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/04/2008 appealing from the Office action mailed 05/13/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5, 732, 067

AOTAKE

07-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

Art Unit: 2621

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21-23, 28-33, and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Aotake (US Pat. No. 5,732,067).

Regarding claim 21, Aotake discloses a method for communicating stop and pause commands in a video recording and playback system, comprising the steps of: in response to a pause command, setting a trick mode indicator of a last frame of video data to be displayed to indicate a freeze trick mode (see col. 28 lines 41-44); and in response to a stop command, clearing a trick mode indicator of a last frame of video data to be displayed (see col. 28 lines 39-41).

Regarding claim 22, Aotake discloses communicating the said video data to a display device (see col. 27 line 43-col. 28 line 47).

Regarding claim 23, Aotake discloses video data comprises packetized data (see col. 8 lines 21-36).

Regarding claim 28, Aotake discloses an apparatus for a video recording and playback system, comprising: a storage device storing at least video data (see fig. 2 and col. 5 lines 10-52) a controller in communication with said storage device for controlling the selection of stored video data to be displayed (see col. 28 lines 17-28); a processor in communication with the said controller (see col. 28 lines 6-16), said processor configured to perform the steps of in response

Art Unit: 2621

to a pause command, setting a trick mode indicator of a last frame of video data to be displayed to indicate a freeze trick mode (see col. 28 lines 41-44); and in response to a stop command, clearing a trick mode indicator of a last frame of video data to be displayed (see col. 28 lines 39-41).

Regarding claim 29, Aotake discloses trick mode indicator comprises a trick mode flag of an MPEG-2 compliant video packet (see col. 27 lines 56-65).

Regarding claim 30, Aotake discloses the said video data comprises frames of video data having packet format (see col. 8 lines 21-36).

Regarding claim 31, Aotake discloses the said packet format comprises an MPEG-2 compliant video packet format (see col. 5 lines 10-39).

Regarding claim 32, Aotake discloses the said packet comprises a DSM-CC compliant video packet format (see cols. 17-28, it is inherent that the video packet is DSM-CC standard).

Regarding claim 33, Aotake discloses the said apparatus comprises a Personal Video Recording Device (see fig. 7 and col. 5 lines 10-39).

Regarding claim 37, Aotake discloses 37. (New) A video system including:
a sender including at least an input for receiving video data and an output for communicating packetized video data to a receiver(see fig. 2, fig. 7, col. 8 line 21-col. 12);
said sender responsive to user commands(see fig. 2 remote controller 9 where user input commands); said receiver including at least an input for receiving said packetized data(see cols.

Art Unit: 2621

5-6 and col. 8); and an output for providing corresponding video images formatted for display(see fig. 2 component D/A(23) and picture output (26) and fig. 13); and

a user operable control device for communicating said user commands to said sender(see fig. 2 and col. 28 lines 17-28); said commands including at least a pause command and a stop command (see col. 28 lines 17-28); wherein in response to a received pause command, said sender sets a trick mode indicator of a last frame of said packetized video data to be communicated to said receiver to indicate a freeze trick mode and in response to a received stop command, said sender clears a trick mode indicator of a last frame of said packetized video data to be communicated to said receiver (see col. 28 lines 29-47);and wherein in response to a determination by the receiver that packetized video data is no longer being received, the receiver examines a trick mode indicator of a last frame of received video data and if a trick mode indicator of the last received frame of video data indicates a freeze trick mode, the last received frame of video data is repeatedly displayed on a display, and if a trick mode indicator of the last received frame of video data is clear, the display of frames of said video data on the display is stopped (see claim 21 rejection above).

Claim 38 is rejected for the same reason as discussed in claim 22 above.

Regarding claim 39, Aotake discloses said video system comprises a High Definition Television system (see col. 6 lines 13-44 and col. 7 lines 46-53).

Claim 40 is rejected for the same reason as discussed in claims 29 and 31

(10) Response to Argument

Appellant states, “Aotake does not teach or suggest ‘setting a trick mode indicator of a last frame of video data to be displayed’ in order to indicate a freeze trick mode.”

In response the Examiner respectfully disagrees. As disclosed in Aotake col. 28 lines 40-44, the last frame of the moving picture is set to change the picture to a still picture when the pause operation is performed. Hence the last picture becomes a still picture. The still picture is an indicator that indicates the freeze trick mode, i.e. the still picture indicates that the moving picture is in freeze (still). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Appellant states, “Aotake does not teach or suggest the steps of ‘in response to a stop command, clearing a trick mode indicator of a last frame of video data to be displayed.’”

In response the Examiner respectfully disagrees. Aotake discloses if the stop key is thrust, the playback control ceases to operate to return to the initial state. The trick mode functions includes, as admitted by Appellant on page 12 and Aotake col. 1 lines 52-66 and col. 28 lines 17-47, stop, pause, fast forward, rewind, cancel, next, previous, etc.. The initial state includes the pause mode (where picture is become still), the stop mode, playback mode, etc. When the stop key is thrust, the pause mode ceases and the operation return to the initial state (referring to Appellant’s ‘clearing indicator’).

In response to Appellant argument with regard to claim 37, Aotake discloses one of the trick mode operations is a ‘cancel’ command. When a cancel key is thrust, the picture, which is displayed before the cancel key thrust, stops. In other words, when a cancel (clear) key is thrust,

Art Unit: 2621

the playback control stops the current operation. Therefore displaying the picture will be stop in a clear (cancel) mode that indicates the clear operation is performed.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the trick mode indicator being a data field that is included in the format of packetized video data which is to be displayed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Aotake discloses the moving picture is packetized as shown in figure 7. The picture to become still is included in the packet.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

Helen Shibu

/HELEN SHIBRU/

Examiner, Art Unit 2621

Conferees:

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621

November 21, 2008

Application/Control Number: 10/757,626

Page 8

Art Unit: 2621

/Mehrdad Dastouri/

Supervisory Patent Examiner, Art Unit 2621